

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 4

HOUSE BILL 2788

AN ACT

AMENDING TITLE 16, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 16-914.02; AMENDING SECTIONS 16-919 AND 16-920, ARIZONA REVISED STATUTES; RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 16, chapter 6, article 1, Arizona Revised Statutes,
3 is amended by adding section 16-914.02, to read:

4 16-914.02. Reporting independent expenditures of corporations
5 and labor organizations; statement; disclaimer and
6 disclosure; civil action; penalty; definitions

7 A. ANY CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION
8 THAT MAKES CUMULATIVE INDEPENDENT EXPENDITURES IN AN ATTEMPT TO INFLUENCE THE
9 OUTCOME OF A CANDIDATE ELECTION AND IN AT LEAST THE FOLLOWING AMOUNTS IN AN
10 ELECTION CYCLE SHALL REGISTER AND NOTIFY THE APPROPRIATE FILING OFFICER NOT
11 LATER THAN ONE DAY AFTER MAKING THAT EXPENDITURE, EXCLUDING SATURDAYS,
12 SUNDAYS AND OTHER LEGAL HOLIDAYS:

13 1. AN AGGREGATE OF FIVE THOUSAND DOLLARS OR MORE IN ONE OR MORE
14 STATEWIDE RACES.

15 2. AN AGGREGATE OF TWO THOUSAND FIVE HUNDRED DOLLARS OR MORE IN ONE OR
16 MORE LEGISLATIVE RACES.

17 3. ONE THOUSAND DOLLARS OR MORE IN ONE OR MORE COUNTY, CITY, TOWN OR
18 OTHER LOCAL RACES IF THE ONE THOUSAND DOLLARS IS AGGREGATED IN RACES IN A
19 SINGLE COUNTY, CITY, TOWN OR OTHER LOCAL JURISDICTION.

20 B. THE SECRETARY OF STATE IS THE FILING OFFICER FOR REGISTRATIONS AND
21 NOTIFICATIONS FOR INDEPENDENT EXPENDITURES IN STATEWIDE AND LEGISLATIVE
22 ELECTIONS. CITY, TOWN OR COUNTY FILING OFFICERS ARE THE FILING OFFICERS FOR
23 NOTIFICATIONS IN A CITY, TOWN, COUNTY OR OTHER LOCAL ELECTION AS PROVIDED IN
24 SECTION 16-916. THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR
25 ORGANIZATION ALSO SHALL NOTIFY THE FILING OFFICER WITHIN THE SAME TIME LIMIT
26 PRESCRIBED IN SUBSECTION A OF THIS SECTION OF EACH ADDITIONAL ACCUMULATION OF
27 EXPENDITURES THAT EXCEEDS THE THRESHOLD AMOUNT PRESCRIBED IN SUBSECTION A OF
28 THIS SECTION BUT IS NOT REQUIRED TO REGISTER AGAIN DURING THAT ELECTION CYCLE
29 AFTER THE INITIAL REGISTRATION. A CORPORATION, LIMITED LIABILITY COMPANY OR
30 LABOR ORGANIZATION MAY REGISTER WITH THE FILING OFFICER AND PROVIDE A
31 NOTARIZED, SWORN STATEMENT OF AUTHORITY IN ADVANCE OF THE EXPENDITURE IN
32 ANTICIPATION OF MAKING AN INDEPENDENT EXPENDITURE. THE SECRETARY OF STATE
33 SHALL PROVIDE FOR ELECTRONIC FILING FOR REGISTRATIONS AND NOTIFICATIONS AND
34 SHALL PROVIDE FOR WEBSITE ACCESS TO THE INFORMATION FOR THE PUBLIC. FILINGS
35 AT THE SECRETARY OF STATE'S OFFICE SHALL BE IN THE FORM PRESCRIBED BY THE
36 SECRETARY OF STATE. OTHER FILING OFFICERS SHALL PRESCRIBE THE FORMAT FOR
37 FILING REGISTRATIONS AND NOTIFICATIONS AND SHALL PROVIDE FOR PUBLIC ACCESS TO
38 THAT INFORMATION. ON OR AFTER NOVEMBER 27, 2012 AND AT THE REQUEST OF THE
39 LOCAL ELECTION FILING OFFICER, THE SECRETARY OF STATE MAY PROVIDE FOR
40 ELECTRONIC FILING PURSUANT TO THIS SECTION FOR LOCAL ELECTIONS.

41 C. THE REGISTRATION SHALL INCLUDE ALL OF THE FOLLOWING:

42 1. THE NAME AND ADDRESS OF THE CORPORATION, LIMITED LIABILITY COMPANY
43 OR LABOR ORGANIZATION.

44 2. THE NAME, TITLE, ELECTRONIC MAIL ADDRESS AND TELEPHONE NUMBER OF
45 THE PERSON AUTHORIZING THE INDEPENDENT EXPENDITURE.

1 D. EACH NOTIFICATION SHALL INCLUDE ALL OF THE FOLLOWING:
2 1. THE NAME AND ADDRESS OF THE CORPORATION, LIMITED LIABILITY COMPANY
3 OR LABOR ORGANIZATION MAKING THE INDEPENDENT EXPENDITURE.
4 2. THE AMOUNT OF THE EXPENDITURE AND THE NAME OF THE VENDOR OR OTHER
5 PAYEE RECEIVING THE EXPENDITURE.
6 3. THE NAME OF THE CANDIDATE AND RACE IN WHICH THE EXPENDITURE WAS
7 MADE AND WHETHER THE EXPENDITURE WAS IN SUPPORT OF OR OPPOSITION TO THE
8 CANDIDATE.
9 4. THE COMMUNICATION MEDIUM AND DESCRIPTION OF WHAT WAS PURCHASED WITH
10 THE EXPENDITURE.
11 5. THE DATE OF THE EXPENDITURE.
12 E. IF THE CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION
13 DID NOT REGISTER AND PROVIDE A NOTARIZED SWORN STATEMENT IN ADVANCE OF THE
14 EXPENDITURE AS PRESCRIBED BY THIS SECTION, THE CORPORATION, LIMITED LIABILITY
15 COMPANY OR LABOR ORGANIZATION SHALL FILE WITH THE SECRETARY OF STATE OR OTHER
16 APPROPRIATE FILING OFFICER WITHIN FIVE DAYS AFTER AN INITIAL THRESHOLD
17 EXPENDITURE AS PRESCRIBED IN SUBSECTION A OF THIS SECTION A NOTARIZED SWORN
18 STATEMENT THAT THE PERSON, AGENT OR OFFICER FILING THE REGISTRATION AND
19 NOTICE HAD AUTHORITY TO MAKE THAT EXPENDITURE ON BEHALF OF THE CORPORATION,
20 LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION. UNTIL THE SECRETARY OF
21 STATE OR OTHER FILING OFFICER RECEIVES THE NOTARIZED SWORN STATEMENT, THE
22 FILING OFFICER SHALL CATEGORIZE THE NOTIFICATION AS UNVERIFIED. IF THE
23 SECRETARY OF STATE OR OTHER FILING OFFICER DOES NOT RECEIVE THE NOTARIZED
24 SWORN STATEMENT WITHIN THE REQUIRED FIVE DAY TIME FRAME, THE NOTIFICATION
25 SHALL BE CATEGORIZED AS BOTH UNVERIFIED AND DELINQUENT. THE FILING OFFICER
26 SHALL MAKE REASONABLE EFFORTS TO CONTACT THE ENTITY THAT MADE THE EXPENDITURE
27 AND REMOVE THE NOTIFICATION FROM PUBLIC VIEW WITHIN A REASONABLE TIME IF
28 UNABLE TO VERIFY THAT THE ENTITY MADE THE EXPENDITURE AND ALL PENALTIES
29 PRESCRIBED IN THIS SECTION APPLY.
30 F. ANY LITERATURE OR ADVERTISEMENT THAT IS PURCHASED WITH MONIES FROM
31 A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION MAKING AN
32 INDEPENDENT EXPENDITURE IN AN ATTEMPT TO INFLUENCE THE OUTCOME OF A CANDIDATE
33 ELECTION SHALL DISCLOSE THE NAME OF THE CORPORATION, LIMITED LIABILITY
34 COMPANY OR LABOR ORGANIZATION MAKING THE EXPENDITURE. ANY DISCLOSURE
35 STATEMENT REQUIRED BY THIS SECTION SHALL BE PRINTED CLEARLY AND LEGIBLY IN A
36 CONSPICUOUS MANNER. IF THE COMMUNICATION IS BROADCAST ON RADIO, THE
37 INFORMATION SHALL BE SPOKEN AT THE END OF THE COMMUNICATION. IF THE
38 COMMUNICATION IS BROADCAST ON A TELECOMMUNICATIONS SYSTEM, THE INFORMATION
39 SHALL BE BOTH WRITTEN AND SPOKEN AT THE END OF THE COMMUNICATION, EXCEPT THAT
40 IF THE DISCLOSURE STATEMENT IS WRITTEN FOR AT LEAST FIVE SECONDS OF A THIRTY
41 SECOND ADVERTISEMENT BROADCAST OR TEN SECONDS OF A SIXTY SECOND ADVERTISEMENT
42 BROADCAST, A SPOKEN DISCLOSURE STATEMENT IS NOT REQUIRED. IF THE
43 COMMUNICATION IS BROADCAST ON A TELECOMMUNICATIONS SYSTEM, THE WRITTEN
44 DISCLOSURE STATEMENT SHALL BE PRINTED IN LETTERS EQUAL TO OR LARGER THAN FOUR
45 PER CENT OF THE VERTICAL PICTURE HEIGHT. THE LITERATURE OR ADVERTISEMENT

1 SHALL INCLUDE THE WORDS "PAID FOR BY" IN THE DISCLOSURE FOLLOWED BY THE NAME
2 OF THE ENTITY MAKING THE EXPENDITURE AND SHALL ALSO STATE THAT IT IS NOT
3 AUTHORIZED BY ANY CANDIDATE OR CANDIDATE'S CAMPAIGN COMMITTEE.

4 G. SUBSECTION F OF THIS SECTION DOES NOT APPLY TO BUMPER STICKERS,
5 PINS, BUTTONS, PENS AND SIMILAR SMALL ITEMS ON WHICH THE STATEMENTS REQUIRED
6 IN SUBSECTION F OF THIS SECTION CANNOT BE CONVENIENTLY PRINTED OR TO A
7 COMMUNICATION BY AN ORGANIZATION SOLELY TO ITS MEMBERS.

8 H. ANY CORPORATION, LIMITED LIABILITY COMPANY OR LABOR ORGANIZATION
9 THAT FAILS TO REGISTER, NOTIFY OR DISCLOSE AS REQUIRED BY THIS SECTION IS
10 LIABLE IN A CIVIL ACTION PURSUANT TO SECTION 16-924 BROUGHT BY THE ATTORNEY
11 GENERAL, COUNTY ATTORNEY OR CITY OR TOWN ATTORNEY, AS APPROPRIATE, FOR A
12 CIVIL PENALTY OF UP TO THREE TIMES THE TOTAL AMOUNT OF THE EXPENDITURE.

13 I. ANY PERSON WHO MAKES A KNOWINGLY FALSE FILING RELATING TO AN
14 INDEPENDENT EXPENDITURE PURSUANT TO THIS SECTION IS GUILTY OF A CLASS 1
15 MISDEMEANOR.

16 J. FOR VIOLATIONS THAT OCCUR BEFORE NOVEMBER 27, 2012, A REASONABLE
17 CAUSE DETERMINATION FOR A VIOLATION OF THIS SECTION MAY ONLY BE MADE BY THE
18 SECRETARY OF STATE'S OFFICE AND NOT BY ANY OTHER FILING OFFICER. ON OR AFTER
19 NOVEMBER 27, 2012, THE LOCAL ELECTION JURISDICTION AND FILING OFFICERS MAY
20 MAKE THEIR OWN REASONABLE CAUSE DETERMINATIONS FOR VIOLATIONS OF THIS SECTION
21 OR MAY ELECT TO CONTINUE TO HAVE THE OFFICE OF THE SECRETARY OF STATE MAKE
22 THOSE REASONABLE CAUSE DETERMINATIONS ON THEIR BEHALF. A CIVIL OR CRIMINAL
23 ENFORCEMENT ACTION MAY NOT BE FILED UNTIL AFTER THE ISSUANCE OF A REASONABLE
24 CAUSE DETERMINATION.

25 K. ANY ENTITY THAT MAKES AN INDEPENDENT EXPENDITURE AND THAT IS
26 ORGANIZED PRIMARILY FOR THE PURPOSE OF INFLUENCING AN ELECTION AND THAT IS A
27 COMBINATION OF CORPORATIONS, LIMITED LIABILITY COMPANIES OR LABOR
28 ORGANIZATIONS OR THAT IS A CORPORATION, LIMITED LIABILITY COMPANY OR LABOR
29 ORGANIZATION THAT ACCEPTS DONATIONS OR CONTRIBUTIONS SHALL FILE WITH THE
30 FILING OFFICER AS A POLITICAL COMMITTEE AS OTHERWISE PROVIDED BY LAW.

31 L. FOR THE PURPOSES OF THIS SECTION, AN EXPENDITURE OCCURS ON THE DATE
32 ON WHICH LITERATURE OR ADVERTISEMENTS ARE DEPOSITED AT THE POST OFFICE FOR
33 MAILING, SUBMITTED TO A COMMUNICATIONS SYSTEM FOR BROADCAST OR SUBMITTED TO A
34 NEWSPAPER OR SIMILAR PRINT MEDIUM FOR PRINTING AND, WITH RESPECT TO AN
35 EXPENDITURE FOR SIGNS, THE DATE ON WHICH A SIGN IS FIRST POSTED.

36 M. FOR THE PURPOSES OF THIS SECTION:

37 1. "INDEPENDENT EXPENDITURE" HAS THE SAME MEANING PRESCRIBED IN
38 SECTION 16-901, EXCEPT THAT IT IS MADE BY A CORPORATION, A LIMITED LIABILITY
39 COMPANY OR A LABOR ORGANIZATION AND EXCEPT AS PRESCRIBED IN SUBSECTION L OF
40 THIS SECTION.

41 2. "LOCAL ELECTION" MEANS AN ELECTION IN A COUNTY, CITY, TOWN, SCHOOL
42 DISTRICT OR SPECIAL DISTRICT.

1 Sec. 2. Section 16-919, Arizona Revised Statutes, is amended to read:
2 16-919. Prohibition of contributions by corporations, limited
3 liability companies or labor organizations;
4 exemption; classification; definitions

5 A. EXCEPT AS PROVIDED IN SECTION 16-914.02, it is unlawful for a
6 corporation or a limited liability company to make AN EXPENDITURE OR any
7 contribution of money or anything of value for the purpose of influencing an
8 election, and it is unlawful for the designating individual who formed an
9 exploratory committee, an exploratory committee, a candidate or a candidate's
10 campaign committee to accept any contribution of money or anything of value
11 from a corporation or a limited liability company for the purpose of
12 influencing an election. This subsection does not apply to political
13 committees that are incorporated pursuant to title 10, chapters 24 through 40
14 and political committees that are organized as limited liability companies.

15 B. EXCEPT AS PROVIDED IN SECTION 16-914.02, it is unlawful for a labor
16 organization to make AN EXPENDITURE OR any contribution of money or anything
17 of value for the purpose of influencing an election.

18 C. A corporation, limited liability company or labor organization
19 which THAT violates this section is guilty of a class 2 misdemeanor.

20 D. The person through whom the violation is effected is guilty of a
21 class 6 felony.

22 E. Notwithstanding subsection A of this section, a political committee
23 that is incorporated only for the purposes of liability limitation may make
24 contributions for the purpose of influencing an election. Notwithstanding
25 the corporate status of a political committee, the chairman and treasurer of
26 an incorporated political committee remain personally responsible for
27 carrying out their respective duties under this article.

28 F. For the purposes of this section:

29 1. "Election" means any election to any political office, any election
30 to any political convention or caucus, or any primary election held for the
31 purpose of selecting any candidate, political committee or other person for
32 any political office, convention or caucus.

33 2. "Employee" includes any employee, is not limited to the employees
34 of a particular employer and includes any individual whose work has ceased as
35 a consequence of, or in connection with, any current labor dispute or because
36 of any unfair labor practice.

37 3. "Employer" includes any person acting as an agent of an employer,
38 directly or indirectly.

39 4. "Labor organization" means any organization of any kind or any
40 agency or employee representation committee or plan in which employees
41 participate and which THAT exists for the purpose in whole or in part of
42 dealing with employers concerning grievances, labor disputes, wages, rates of
43 pay, hours of employment or conditions of work.

1 Sec. 3. Section 16-920, Arizona Revised Statutes, is amended to read:
2 16-920. Permitted expenditures by corporations and labor
3 organizations

4 A. Expenditures for the following purposes shall not be construed to
5 be political contributions prohibited by law:

6 1. Communications by a corporation to its stockholders and executive
7 or administrative personnel and their families, or by a labor organization to
8 its members and their families, on any subject.

9 2. Nonpartisan registration and get-out-the-vote campaigns by a
10 corporation aimed at its stockholders and executive or administrative
11 personnel and their families or by a labor organization aimed at its members
12 and their families.

13 3. The establishment, administration and solicitation of voluntary
14 contributions to a separate segregated fund to be utilized for political
15 purposes by a corporation, labor organization, membership organization, trade
16 association, cooperative or corporation without capital stock.

17 4. The establishment, administration and solicitation of voluntary
18 contributions from employees of a corporation or limited liability company,
19 including contributions made by payroll deduction, deposit or transfer or
20 other similar method, and that are made directly to a separate segregated
21 fund that is used for political purposes by a trade association of which the
22 employing corporation or limited liability company is a member.
23 Contributions received under this subsection shall be reported pursuant to
24 section 16-915, subsection A, paragraph 2, subdivision (a) or subsection E.

25 5. Contributions for use to support or oppose an initiative or
26 referendum measure or amendment to the constitution.

27 6. INDEPENDENT EXPENDITURES MADE PURSUANT TO SECTION 16-914.02.

28 B. A membership organization, trade association, cooperative or
29 corporation without capital stock may engage in the activities permitted in
30 SUBSECTION A, paragraphs 1 and 2 ~~of subsection A~~ of this section if such
31 activities are directed toward its members, stockholders or members of its
32 members, its and its members' executive or administrative personnel, and
33 their families.

34 Sec. 4. Emergency

35 This act is an emergency measure that is necessary to preserve the
36 public peace, health or safety and is operative immediately as provided by
37 law.

APPROVED BY THE GOVERNOR APRIL 1, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 1, 2010.